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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,792	05/04/2001	Christopher S. Churchill	119068-1000	7893

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EXAMINER

GLESSNER, BRIAN E

ART UNIT PAPER NUMBER

3635

DATE MAILED: 04/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/848,792

Applicant(s)

CHURCHILL ET AL.

Examiner

Brian E. Glessner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 1-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of the restriction in Paper No. 3 is acknowledged. The traversal is on the ground(s) that the examiner did not provide any reason as to why the species are distinct, and that the examiner did not show that a serious burden would be on the examiner if restriction were not required. This is not found persuasive because the examiner did provide reasons as to why the species are distinct. These reasons were set forth in paragraphs 2 and 3 of the previous office action. Further, the examiner also showed that the different species of invention each belonged in a different class, i.e. Group I belonged in class 264, Group II belonged in class 428, and Group III belonged in class 52. Therefore, if the examiner did not restrict the claims, he would have had the serious burden of looking in all of the above classes for three different inventions. The examiner believes that he has demonstrated that the inventions are each distinct from the other and that a serious burden would be on the examiner if the restriction requirement were not made.

The requirement is still deemed proper and is therefore made FINAL.

The examiner would also like to point out that the applicant agreed to address the issue of claims 14-19 set forth in the previous office action. Since the applicant did not address this issue, the examiner assumes that the claims are correct as they are. Therefore, since the restriction requirement, regarding claims 18 and 19, was based on claims 18 and 19 being dependent upon claim 13, said claims are not being examined because they are dependent upon an non-elected invention, i.e. claim 12, which is dependent upon claim 1. Thus, the examiner will be examining claims 20-23.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the fire resistant door, doorframe and door skins must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruggie et al. (5,887,402) in view of Grantham et al. (6,528,175) and the article **“THE RICE STRAW DEMONSTRATION PROJECT FUND”** Proposed Grant Awards For Fiscal Year 1998-99 Presented for the California Air Resources Board’s Consideration On April 22, 1999, hereafter referred to as “the rice straw article”.

In regard to claims 20 and 23, Ruggie discloses a fire resistant door (column 3, lines 55-62) comprising an inner core 70 comprising a fiberboard in a resin matrix (column 9, lines 30-41), a doorframe 20, and one or more door skins 11, 11A. Ruggie does not specifically disclose that said core comprises milled rice straw fiber or that the doorframe comprises a fire resistant

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material. Grantham teaches that it is known to form doorframes and door cores out of a fiberboard material that is fire resistant (column 2, lines 39-55). The rice straw article teaches that it is known to produce fiberboard panels out of a rice straw material, wherein the panels are used for door cores. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the door frame out of a fire resistant material, because if the door is fire resistant, but the frame is not, the fire will merely burn through the frame until the door collapses from lack of support. Therefore, if the frame is made of fire resistant material, the entire doorway will not burn when exposed to the flames.

In regard to the core material, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use rice straw for the fiberboard in place of Ruggie's fiberboard, because the rice straw is less expensive and also has an inherent fire resistance when compressed. Therefore, the rice straw will provide a better fire resistant core for the door structure.

In regard to claim 21, Ruggie in view of Grantham and the rice straw article disclose the basic claimed invention, except for specifically disclosing that the milled straw fiber has an average longitudinal length of approximately .125 inches to 1.5 inches. It would have been obvious to one having ordinary skill in the art at the time the invention was made to mill the fibers to the above length, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

In regard to claim 22, Ruggie in view of Grantham and the rice straw article disclose the basic claimed invention, wherein the door core further comprises a fire retardant material

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comprising sodium silicate. Grantham teaches that it is known to incorporate a sodium silicate material into fire doors and doorjamb materials, column 2, lines 47-67 and column 3, lines 1-12.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Naslund et al., Seidner, Sim, Fortin et al., Gomez, Hall, Waggoner et al., Hall, Darma, Enviro Board Corporation article, Investors aim to trun rice straw into fiberboard article, and Rice Straw Products Resource List Building Materials article.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E. Glessner whose telephone number is 703-305-0031. The examiner can normally be reached on Monday-Friday 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on 703-308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

B.G.
April 11, 2003


Carl D. Friedman
Supervisory Patent Examiner
Group 3600